

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

THOMAS R. KOZAK, THOMAS S. KOZAK,

Plaintiffs,

v.

Case Number 09-14695-BC
Honorable Thomas L. Ludington
Magistrate Judge Charles E. Binder

LAKE STATE RAILWAY COMPANY,
STRAITS CORPORATION, SAGINAW
MIDLAND MUNICIPAL WATER SUPPLY
CORPORATION, REBECCA GILLARD,
LYLE TOLFREE, JOHN TRYBAN, KATHY
COOPER, KEVIN MITRZYK, MARGIE
BRIGHAM, MARK NAGY, NATALIE
RIGG, TINA WOGAN, WIL GAMBLE,
WILLIAM F. BARTLETT, GARY PETERS,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING
CERTAIN OF PLAINTIFFS' CLAIMS WITHOUT PREJUDICE**

This matter is before the Court on a report and recommendation issued by Magistrate Judge Charles E. Binder on May 24, 2010. Judge Binder recommends that the Court dismiss without prejudice for failure to timely serve pursuant to Federal Rule of Civil Procedure 4(m), Plaintiffs' claims against Defendants Rebecca Gillard, Lyle Tolfree, John Tryban, Kathy Cooper, Kevin Mitzyk, Margie Brigham, Mark Nagy, Natalie Rigg, Tina Wogan, Wil Gamble, and Gary Peters. As of today's date, no party has filed any objections to Judge Binder's report and recommendation. The decision to not object to the Judge Binder's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Nonetheless, the Court agrees with the report and recommendation.

Accordingly, it is **ORDERED** that the report and recommendation [Dkt # 27] is **ADOPTED**.

It is further **ORDERED** that Plaintiffs' claims against Defendants Rebecca Gillard, Lyle Tolfree, John Tryban, Kathy Cooper, Kevin Mitzyk, Margie Brigham, Mark Nagy, Natalie Rigg, Tina Wogan, Wil Gamble, and Gary Peters are **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 21, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 21, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS